

**Major New Source  
Review Reform  
(Revision E03)  
Final Amendments**

- **This action will:**
  - Modify permitting rules to include the basic elements of major new source review (NSR) reform.
  - Needed to maintain consistency with federal requirements.

- **The goals of this action are:**
  - To ensure protection of public health and welfare.
  - To provide greater operational flexibility to the regulated community.
  - To streamline permitting procedures for the department

# Background – Summary of EPA Requirements

## Five original elements:

1. changes to method for determining baseline actual emissions
2. changes to method for determining emissions increases due to physical or operational change (“actual-to-projected actual” test)
3. pollution control projects (PCPs)
4. clean units
5. plantwide applicability limits (PALs)

U.S. District Court of Appeals  
for the D.C. Circuit Court  
State of New York vs. U.S. EPA

Upheld:

1. method for determining baseline actual emissions
2. actual-to-projected actual test
3. plantwide applicability limits (PALs)

Vacated:

1. pollution control projects (PCPs)
2. clean units

**Developing the  
Virginia  
proposed  
regulation**

# Preliminary process

- training
- research
- public comment period and meeting
- ad hoc group – meetings and reports

# Changes made in state proposal to EPA baseline

Requirement	EPA final	Virginia proposal
lookback period to determine past actual emissions	10 years	5 years
24 mo. period used to establish each pollutant baseline	may be separate for each pollutant	must be same for all pollutants
consequences of miscalculating applicability or emissions	not specified	violation of terms of the permit
supporting documentation	sources must develop and maintain adequate information	sources must also provide notification that this information is available
PAL duration	10 years	5 years
Clean Unit duration	10 years	5 years

## Changes made in state proposal to EPA baseline

- Balance between baseline federal requirements and additional requirements to meet specific Virginia environmental needs.
- Compromise between two mutually exclusive public positions.
- Will be approvable by EPA.

## Public Comment

- Requested public comment on proposed changes as well as additional specific issues.
- Public hearing and 60 day comment period.

## Final process

- Public hearing
  - 6 attendees, 3 offering testimony
- Written comments:
  - Detailed comments from 2 major advocacy groups
  - Additional comments from industry and numerous citizens.

# Summary of public comment

- Two basic positions:
  - Incorporate EPA rules without change
  - Do not incorporate EPA rules
    - If EPA rules used, some revisions acceptable

# Developing the Virginia final regulation

# Changes made to final state proposal

Requirement	Virginia proposal	Virginia final
lookback period to determine past actual emissions	5 years	no significant change
24 mo. period used to establish each pollutant baseline	must be same for all pollutants	no significant change
consequences of miscalculating applicability or emissions	violation of terms of the permit	no significant change
supporting documentation	sources must also provide notification that this information is available	no significant change
PAL duration	5 years	no significant change
Clean Units and PCPs	added	removed

# Justification for final provisions

- Five-year lookback (baseline and PALs)
  - 10 years (EPA rule)
    - may result in significant emissions increases
    - permitting and compliance issues
    - may not be suitable for or available to all source types
  - 2 years (no change to current program)
    - not an accurate representation of source emissions
    - disincentive to installing less-polluting equipment
  - **5 years: resolves these issues.**

# Justification for final provisions

- Baselines for different pollutants
  - Can use different baselines (EPA rule)
    - may result in significant emissions increases
    - permitting and compliance issues
    - increased rule complexity
  - ***Same baseline for all pollutants resolves these issues.***

# Justification for final provisions

- Consequences of miscalculating applicability or emissions
  - Not specified (EPA rule).
    - may result in significant emissions increases
    - permitting and compliance issues
  - ***Specifying that miscalculation constitutes a permit violation addresses these issues.***

# Justification for final provisions

- Supporting documentation
  - None additional required (EPA rule)
    - permitting and compliance issues - how to establish and determine compliance with emissions limits
  - ***Requiring additional recordkeeping and reporting resolves this issue.***

# Justification for final provisions

- PAL duration
  - 10 years (EPA rule)
    - may result in significant emissions increases
    - permitting and compliance issues
    - may not be suitable for or available to all source types
  - ***Limiting PAL duration to 5 years resolves these issues.***

# Justification for final provisions

- Removal of clean units and PCPs
  - Vacated by court.
  - Cannot be legally implemented.
  - EPA has instructed states that are developing rules to not include these provisions.
- ***Removing clean units and PCPs resolves these issues.***

## Draft final rule

- Meet Virginia-specific air quality needs
  - Contribute to reaching attainment and protection of clean air (PSD) areas
  - Improve permitting and compliance performance
- Meet specific needs identified by the public
  - Environmental community
  - Regulated community
- Meet federal requirements

- **Department**

- **Recommendation:**

- That the board adopt proposal with an effective date 30 days after the date on which a notice is published in the Virginia Register acknowledging that the administrator has approved the amendments adopted by the board .
- That the proposal be submitted to EPA as a SIP revision.